

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CRESENCIANO REYES, ON BEHALF OF  
HIMSELF AND ALL OTHERS SIMILARLY  
SITUATED,

Plaintiff,

-against-

GRACEFULLY, INC. d/b/a GRACEFULLY DELI  
EAST VILLAGE, FOOD EX LLC d/b/a  
GRACEFULLY DELI UPPER WEST SIDE,  
FOODMOOD LLC d/b/a GRACEFULLY, JOEL  
DANCYGER, GRACE DANCYGER, and  
VICTUALS, LLC,

Defendants.  
-----X

17-CV-9328 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS the parties have submitted their settlement agreement to the Court for approval, pursuant to *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 206 (2d Cir. 2015) (Dkt. 41);

IT IS HEREBY ORDERED THAT the Court will not approve the parties' settlement as it is currently written for the following reasons:


1. The payment schedule is unfair to the Plaintiffs; there is no reason for legal fees to be paid before Plaintiffs are paid. If Defendants wish to make the settlement payments in two equal installments, as indicated in Section 2, the Court will approve either a payment schedule that is divided pro rata between the Plaintiffs and their attorneys or that is allocated entirely to the Plaintiffs. The second payment should then allocate the respective remainders owed pursuant to the Settlement Agreement.

2. The general release in Section 6 is unacceptable as written. The Court will approve as fair only a release that is limited to the wage and hour claims raised in this case.

The Court will approve as fair a settlement agreement revised in accordance with this Order. The parties must resubmit the agreement by **February 20, 2020, or appear for a conference on February 21, 2020 at 10:00 a.m..**

**SO ORDERED.**

**Date: February 10, 2020**  
**New York, New York**

  
\_\_\_\_\_  
**VALERIE CAPRONI**  
**United States District Judge**